

**LETTER FROM THE AUDITOR OF PUBLIC ACCOUNTS
JUSTICE CABINET
OFFICE OF THE SECRETARY**

**In Reference to the Statewide Single Audit
of the Commonwealth of Kentucky**

For the Fiscal Year Ended June 30, 2004



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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Stephen B. Pence
Lieutenant Governor of Kentucky
Justice Cabinet, Office of the Secretary

MANAGEMENT LETTER

Pursuant to KRS 43.090 (1), which states, "immediately upon completion of each audit and investigation, except those provided for in KRS 43.070, the Auditor shall prepare a report of his findings and recommendations," we are providing this letter to the Justice Cabinet, Office of the Secretary to comply with KRS 43.090.

This letter presents the results of the work performed at the Justice Cabinet, Office of the Secretary, as part of our annual Statewide Single Audit of the Commonwealth of Kentucky.

In planning and performing our audit over compliance with requirements applicable to major federal programs, for the year ended June 30, 2004, we considered the Justice Cabinet, Office of the Secretary's internal control in order to determine our auditing procedures for the purpose of expressing an opinion on compliance with requirements applicable to each major federal program and to report on internal control over compliance in accordance with Office of Management and Budget (OMB) Circular A-133 and on the Schedule of Expenditure of Federal Awards (SEFA).

We noted certain instances of noncompliance with requirements applicable to major federal programs we considered to be reportable under standards established by OMB Circular A-133.

We noted certain matters involving internal control over compliance and its operation that we considered to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of internal control over compliance that, in our judgment, could adversely affect the Justice Cabinet, Office of the Secretary's ability to administer a major federal program in accordance with the applicable requirements of OMB Circular A-133.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and would not necessarily disclose all matters that might be reportable conditions.



The Honorable Stephen B. Pence
Lieutenant Governor of Kentucky
Justice Cabinet, Office of the Secretary
(Continued)

In addition, because of inherent limitations in internal control, errors or fraud may occur and not be detected by such controls.

As part of our audit of the Commonwealth's basic financial statements, we also performed tests of the Justice Cabinet, Office of the Secretary's compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. The results of those tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

Some findings are Other Matters that we have included in this letter to communicate with management in accordance with auditing standards generally accepted in the United States of America and *Government Auditing Standards*.

Included in this letter are the following:

- ◆ Acronym List
- ◆ Schedule of Expenditures of Federal Awards
- ◆ Notes to the Schedule of Expenditures of Federal Awards
- ◆ Findings and Recommendations (Federal Noncompliance, Reportable Conditions, Material Weaknesses, Noncompliance, and Other Matters)
- ◆ Summary Schedule of Prior Year Audit Findings

We have issued our Statewide Single Audit of the Commonwealth of Kentucky that contains the Justice Cabinet, Office of the Secretary's findings, as well as those of other agencies of the Commonwealth. This report can be viewed on our website at www.auditor.ky.gov.

This letter is intended solely for the information and use of management and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

February 28, 2005

LIST OF ABBREVIATIONS/ACRONYMS

AOC	Administrative Office of the Courts
APA	Auditor of Public Accounts
CAP	Cost Allocation Plan
CFDA	Catalog of Federal Domestic Assistance
DCJT	Department of Criminal Justice Training
FSR	Financial Status Report
FY	Fiscal Year
GMB	Grants Management Branch
IDCRP	Indirect Cost Rate Proposal
JUST	Justice Cabinet, Office of the Secretary
KSP	Kentucky State Police
KRS	Kentucky Revised Statutes
MARS	Management Administrative Reporting System
OJP	Office of Justice Programs
OMB	Office of Management and Budget
SEFA	Schedule of Expenditures of Federal Awards
SF	Short Form
US	United States
USDOJ	United States Department of Justice
VAWA	Violence Against Women Formula Grants
VOCA	Crime Victim Assistance Grant

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FEDERAL ASSISTANCE PROGRAMS
FOR THE YEAR ENDED JUNE 30, 2004

CFDA # Program Title		Expenditures		Provided to Subrecipient
		Cash	Noncash	
JUSTICE CABINET				
U.S. Department of Justice				
Direct Programs:				
16.550	State Justice Statistics Program for Statistical Analysis Centers	49,797		
16.554	National Criminal History Improvement Program (Note 4)	-		
16.560	National Institute of Justice Research, Evaluation and Development Project Grants	24,163		
16.575	Crime Victim Assistance	4,427,349		4,260,462
16.579	Byrne Formula Grant Program	3,154,233		2,592,362
16.580	Edward Byrne Memorial State and Local Law Enforcement Assistance Discretionary Grants Program (Note 4)	-		
16.586	Violent Offender Incarceration and Truth in Sentencing Incentive Grants	14,489		
16.588	Violence Against Women Formula Grants	1,675,859		1,626,560
16.589	Rural Domestic Violence and Child Victimization Enforcement Grant Program	113,838		113,838
16.592	Local Law Enforcement Block Grants Program	423,106		417,504
16.593	Residential Substance Abuse Treatment for State Prisoners (Note 4)	-		
16.607	Bulletproof Vest Partnership Program (Note 4)	-		
16.710	Public Safety Partnership and Community Policing Grants (Note 3)(Note 4)	-		
TOTAL JUSTICE CABINET OFFICE OF THE SECRETARY		\$ 9,882,834		\$ 9,010,726

NOTES TO THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2004

Note 1 - Purpose of the Schedule and Significant Accounting Policies

Basis of Presentation - OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, requires a Schedule of Expenditures of Federal Awards showing each federal financial assistance program as identified in the *Catalog of Federal Domestic Assistance*. The accompanying schedule includes all federal grant activity for the Justice Cabinet, Office of the Secretary, except those programs administered by state universities, and is presented primarily on the basis of cash disbursements as modified by the application of KRS 45.229. Consequently, certain expenditures are recorded in the accounts only when cash is disbursed. The Commonwealth elected to exclude state universities from the statewide single audit, except as part of the audit of the basic financial statements.

KRS 45.229 provides that the Finance and Administration Cabinet may, “for a period of thirty (30) days after the close of any fiscal year, draw warrants against the available balances of appropriations made for that fiscal year, for the payment of expenditures incurred during that year or in fulfillment of contracts properly made during the year, but for no other purpose.” However, there is an exception to the application of KRS 45.229 in that regular payroll expenses incurred during the last pay period of the fiscal year are charged to the next year.

The basic financial statements of the Commonwealth are presented on the modified accrual basis of accounting for the governmental fund financial statements and the accrual basis of accounting for the government-wide, proprietary fund, and fiduciary fund financial statements. Therefore, the schedule may not be directly traceable to the basic financial statements in all cases.

The state agencies’ schedule is presented on the cash, modified cash, or accrual basis of accounting.

Inter-Agency Activity - Certain transactions relating to federal financial assistance may appear in the records of more than one (1) state agency. To avoid the overstatement of federal expenditures, the following policies were adopted for the presentation of the schedule:

- (a) Federal moneys may be received by a state agency and passed through to another state agency where the moneys are expended. Except for pass-throughs to state universities as discussed below, this inter-agency transfer activity is reported by the agency expending the moneys.

State agencies that pass federal funds to state universities report those amounts as expenditures.

NOTES TO THE SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
FOR THE YEAR ENDED JUNE 30, 2004

Note 1 - Purpose of the Schedule and Significant Accounting Policies (Continued)

- (b) Federal moneys received by a state agency and used to purchase goods or services from another state agency are reported in the schedule as an expenditure by the purchasing agency only.

Note 2 - Type A Programs

Type A programs for the Commonwealth mean any program for which total expenditures of federal awards exceeded \$20 million for FY 04.

The Justice Cabinet, Office of the Secretary had no programs that met the Type A program definition for the year ended June 30, 2004.

Note 3 - Pass-Through Programs

OMB Circular A-133 Section 105 defines a recipient as “a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program” and a pass-through entity as “a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.”

Federal program funds can be received directly from the federal government or passed through from another entity. Below is a list of all federal programs that are either (1) passed through, or (2) both direct and passed through.

Received From	Direct/Pass-Through (Grantor #)	State Agency	Amount
<u>Public Safety Partnership and Community Policing Grants (CFDA #16.710)</u>			
U.S. Department of Justice	Direct	KSP	\$ 533,209
Eastern Kentucky University	Direct Pass Through (97-CK-WK-1)	JUST DCJT	
Total Public Safety Partnership and Community Policing Grants			<u><u>\$ 533,209</u></u>

Note 4 - Zero Expenditure Programs

These programs had no expenditures related to the respective state organization during FY 04. The zero expenditure programs included programs with no activity during the year, such as old programs not officially closed out or new programs issued late in the fiscal year. They also included programs with activity other than expenditures.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-1: The Justice Cabinet Should Implement And Follow An
Approved Indirect Cost Allocation Plan**

State Agency: Justice Cabinet - Office of the Secretary

Federal Program: CFDA 16.575--Crime Victim Assistance

CFDA 16.579--Byrne Formula Grant Program

CFDA 16.588--Violence Against Women Formula Grants

Federal Agency: U.S. Department of Justice - Office of Justice Programs

Pass-Through Agency: Not Applicable

Compliance: Allowable Costs/Cost Principles

Amount of Questioned Costs: \$363,063

Indirect costs are those costs that benefit common activities and, therefore, cannot be readily assigned to a specific direct cost objective or project. As we noted during the FY 02 and FY 03 audits, although the Justice Cabinet, Office of the Secretary does not have an approved indirect cost plan in place for charging indirect costs to federal grants, indirect costs are included as part of the administrative costs for the agency.

We also noted that while payroll charged to grants is typically a direct charge based on actual hours worked, Justice Cabinet allocates payroll charges to grants indirectly based on percentages determined in a time study from several years ago. Justice Cabinet could not provide auditors with any information or support for this time study. Therefore, we could not verify the accuracy or validity of the percentages used.

During FY 04, Justice Cabinet GMB personnel worked on the indirect cost allocation plan, but did not have one in place. On January 31, 2005, Justice Cabinet submitted an indirect cost plan for approval to the federal cognizant. Written approval had not been obtained as of February 28, 2005.

Charging indirect costs to federal grants without an approved indirect cost plan in place is not in compliance with OMB Circular A-133, Compliance Supplement Part 3 - Compliance Requirements, Section B. Allowable Costs/Cost Principles.

OMB Circular A-133 Part 3, Section B. Allowable Costs/Cost Principles states, "In order to recover indirect costs, organizations must prepare cost allocation plans (CAPs) which apply only to state, local and Indian tribal governments or indirect cost rate proposals (IDCRPs) in accordance with the guidelines provided in OMB's Circulars."

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-1: The Justice Cabinet Should Implement And Follow An
Approved Indirect Cost Allocation Plan (Continued)**

According to the U.S. Department of Justice Financial Guide, Chapter 17, Indirect Costs, "In order to be reimbursed for indirect costs, a recipient must first establish an appropriate indirect cost rate. To do this, the recipient must prepare an indirect cost rate proposal and submit it to the cognizant Federal agency . . . If an indirect cost proposal for recovery of actual indirect costs is not submitted to the cognizant Federal agency within three months of the start of the award period, indirect costs will be irrevocably lost for all months prior to the month that the indirect cost proposal is received. This policy is effective for all awards."

Recommendation

We recommend that after the indirect cost plan is approved by the federal cognizant, the Justice Cabinet-Office of the Secretary apply the rate consistently to accurately charge indirect costs to grants. If the indirect cost plan is not approved, we recommend that the Justice Cabinet revise the plan to meet federal standards.

Since the agency did not have an approved indirect cost plan in place for FY 2004, we are questioning \$363,063 in costs charged to the three grants included in this audit. Included in this amount are all payroll charges for the three grants, based on the fact that all payroll was charged indirectly using a time study that could not be confirmed. We recommend that Justice Cabinet return these questioned costs to the US Department of Justice.

Management Response and Corrective Action Plan

The Justice and Public Safety Cabinet acknowledges the need to update time allocations, and Grants Management Branch staff will complete an updated time study by the end of FY2005. However, the Cabinet disagrees with the finding's interpretation of indirect costs as they apply to staff directly employed by Grants Management Branch and assigned to administer individual grants. Personnel (and related) costs for Grants Management Branch employees were charged as direct administrative costs, not as indirect costs. Although employees' time allocations must be updated (as recognized above), these employees have no responsibilities outside of the branch, and thus their related expenses may, indeed, be "readily assigned to specific projects." Affected Office of the Secretary staff have too diverse responsibilities to track separately, and therefore were considered separately in the Indirect Cost Rate proposal draft recently submitted to the U.S. Department of Justice. We have contacted USDOJ for guidance and will follow their directives to dispose of previously applied and/or future indirect costs and the submitted Indirect Cost Rate proposal.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-1: The Justice Cabinet Should Implement And Follow An
Approved Indirect Cost Allocation Plan (Continued)**

Auditor's Reply

We reaffirm that while payroll charged to grants is typically a direct charge based on actual hours worked, Justice Cabinet allocates payroll charges to grants indirectly based on percentages determined in a time study from several years ago. Because the percentages cannot be proven as an accurate reflection of time spent working on a specific grant, these payroll charges are indirect costs for FY 2004.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-2: The Justice Cabinet Should Provide Sufficient Documentation
Of Subrecipient Monitoring Activities**

State Agency: Justice Cabinet - Office of the Secretary

Federal Program: CFDA 16.575--Crime Victim Assistance

CFDA 16.579--Byrne Formula Grant Program

CFDA 16.588--Violence Against Women Formula Grants

Federal Agency: U.S. Department of Justice - Office of Justice Programs

Pass-Through Agency: Not Applicable

Compliance: Subrecipient Monitoring

Amount of Questioned Costs: None

In the Crime Victim Assistance (VOCA) and Violence Against Women (VAWA) subrecipient files that we reviewed for the 2004 fiscal year audit, there were several instances of files with neither financial nor programmatic monitoring tools completed during the fiscal year. In addition, we noted quarterly subgrantee progress, financial reports, and closeout reports were not submitted timely to Grants Management Branch (GMB) by subrecipients. We also noted that payments to subrecipients were often delayed for several months. According to GMB, these payments were delayed due to either late quarterly reports from subrecipients or problems within the quarterly reports submitted by subrecipients.

In the Byrne subrecipient files that we reviewed for the 2004 fiscal year, the auditor noted only two of the ten subrecipients submitted timely financial reports. In addition, there were financial reports received several months past the due date, causing payments to be delayed for these entities. We also noted no financial site visits and only two performance site visits documented.

Without adequate documentation in the subrecipient files, it is not possible to determine what monitoring activities are performed or how often they are performed. It is also difficult to determine why payments have been delayed.

During the 2004 fiscal year, sufficient monitoring activities were not being performed and/or documented to ensure that subrecipients were using Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals were achieved. Subrecipients could be in noncompliance with federal requirements and grant funds could be spent erroneously when monitoring is not performed adequately or timely.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-2: The Justice Cabinet Should Provide Sufficient Documentation
Of Subrecipient Monitoring Activities (Continued)**

According to OMB Circular A-133, Subpart D (d) Pass-through entity responsibilities, “A pass-through entity shall perform the following for the federal awards it makes: . . .

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.”

Policy and procedures for subrecipient monitoring should be in place and followed to ensure subrecipients are spending federal grant funds in compliance with their grant agreement as well as federal laws and regulations.

Recommendation

While GMB has developed a monitoring schedule to determine which subrecipients will receive desk, telephone or site monitoring reviews, we found that the subrecipient files often did not contain documentation that a review had been done. In several cases where payments to subrecipients were delayed, GMB personnel indicated that there had been discrepancies in the quarterly financial report from the subrecipient that needed to be reviewed further. We recommend that GMB thoroughly document these instances in the future within the subrecipient file to support the delay in payment to the subrecipient and that GMB endeavor to ensure timely payments to subrecipients.

We recommend that the GMB continue to implement policies and procedures to ensure that subrecipient monitoring activities are being performed consistently and on a regular basis. We further recommend that documentation of these activities be filed in the subrecipient files when performed.

Management Response and Corrective Action Plan

As noted, the Grants Management Branch has made significant improvements in its file maintenance procedures; however, it recognizes the potential for additional improvements. In order to assure the completeness of its records, a random file audit procedure will be established to assure the presence of required documents, or a sufficient explanation for their absence. Fiscal staff have increased their efforts regarding completeness and accuracy of financial reports submitted, and, during the preceding fiscal year, began returning deficient reports to the responsible subgrantee for correction, rather than attempting to resolve matters in-house. Improving documentation of deficiencies and resulting delays will be an area of attention in random file audits, and a focus of fiscal staff.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-3: The Justice Cabinet Should Monitor Grant Funds Passed-Thru To Other State Agencies For Compliance With Grant Requirements**

State Agency: Justice Cabinet - Office of the Secretary

Federal Program: CFDA 16.579--Byrne Formula Grant Program

Federal Agency: U.S. Department of Justice - Office of Justice Programs

Pass-Through Agency: Not Applicable

Compliance: Allowable Costs/Cost Principles

Amount of Questioned Costs: \$388.25

During testing of Payroll expenditures charged to the Byrne Grant for FY 2004 we found that State Police charged the grant incorrectly for overtime not worked per the post's payroll summary due to a data entry error. We also found that the Administrative Office of the Courts paid an employee for work completed on a non-grant activity on September 1, 2003 and also for holiday pay from grant funds for the same day. The employee should have only received pay for the non-grant activity and no charges should have been made to the grant for that date.

State Police charged the Byrne Formula Grant by \$179.20. While the Human Resource Department has internal controls in place that found the error and corrected the employee's pay in the following pay period, there were not controls in place to ensure that this error was communicated with the grant accountant so that the charges to the grant could be corrected as necessary. When questioned by the auditor an employee of the payroll department stated, and the Human Resources director concurred, that there is not a procedure in place to communicate these types of errors with the grant accountant. Without notification from Human Resources, the grant accountant could not of been aware of the necessary corrections.

Administrative Office of the Courts improperly charged the Byrne Grant \$209.05 for non-grant related work the employee performed on September 1, 2003. Policies/procedures in place during the audit period permitted an employee to be improperly paid twice for work on the same day.

OMB A-87 11. h. 4. states, "Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation . . ."

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-3: The Justice Cabinet Should Monitor Grant Funds Passed-Thru To Other State Agencies For Compliance With Grant Requirements (Continued)**

Recommendation

The Justice Cabinet should consider improving changes to their review of grant funds passed thru to state agencies, including testing samples of time sheets and other expenditure documents, to ensure that funds have been spent in compliance with federal guidelines, agency grant agreement, and approved budget. Further they should follow-up on known questioned costs herein to ensure that the improper charges have been repaid.

State Police should strengthen internal controls to prevent the data entry errors, which led to the overcharges as well as improve communications between the Human Resource Department and grants accountant so that errors can be properly corrected in a timely manner. State Police should reimburse the grant for known questioned costs to ensure the improper charges have been repaid.

AOC internal controls should be strengthened to prevent improper charges to the federal grant. AOC should reimburse the grant for known questioned costs to ensure the improper charges have been repaid.

Management Response and Corrective Action Plan

Grants Management Branch will direct state agency subgrantees as indicated above, and will continue to enhance monitoring efforts in this, as in other, areas. Subgrantees referenced here will be directed to return the questioned amounts to Grants Management Branch. In the past, the two referenced agencies have submitted extensive documentation for all subgrants awarded to them, with errors infrequently noted. When costs have been questioned, however, they have responded timely.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-4: The Justice Cabinet Should Implement Procedures To Ensure
All Grant Funds Are Expended In Accordance With Federal Guidelines**

State Agency: Justice Cabinet - Office of the Secretary

Federal Program: CFDA 16.575--Crime Victim Assistance

CFDA 16.579--Byrne Formula Grant Program

CFDA 16.588--Violence Against Women Formula Grants

Federal Agency: U.S. Department of Justice - Office of Justice Programs

Pass-Through Agency: Not Applicable

Compliance: Allowable Costs/Cost Principles

Amount of Questioned Costs: None

The Justice Cabinet's monitoring of grant expenditures is not sufficient to ensure that grant funds are expended in accordance with grant requirements. In FY04, Byrne Formula Grant expenditures totaled \$6,189,388.40, with \$2,613,100 sent to subrecipients. Besides subrecipients, several state agencies receive Byrne grant funds, including Kentucky State Police (FY04 expenditures \$1,561,504) and Administrative Office of the Courts (FY04 expenditures \$1,221,550). The Justice Cabinet Office of the Secretary had expenditures of \$541,133 including payroll and administrative expenditures.

These funds receive little oversight from the Justice Cabinet Grants Management Branch. There is insufficient monitoring of expenditures made for administrative items. Because of the lack of monitoring, items such as employee retirement plaques were charged to grants.

A significant amount of grant expenditures are made within the Justice Cabinet and within other state agencies, such as State Police and Administrative Office of the Courts. Lack of monitoring of these expenditures leaves a large amount of grant funds without proper monitoring and subject to misappropriation.

OMB Circular No. A-87 Attachment A General Principles for Determining Allowable Costs, A) Purpose and Scope 2. Policy states "... (1) Governmental units are responsible for the efficient and effective administration of Federal awards through the application of sound management practices. (2) Governmental units assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award."

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-4: The Justice Cabinet Should Implement Procedures To Ensure
All Grant Funds Are Expended In Accordance With Federal Guidelines (Continued)****Recommendation**

We recommend that Justice Cabinet, Office of the Secretary implement procedures to ensure that all grant funds are expended in accordance with federal guidelines. We further recommend that Grants Management Branch apply the same standards to other state agencies, as well as within Justice Cabinet that they do subrecipients by requiring timely report submission and sufficient supporting documentation of expenditures. We further recommend that expenditures, including administrative expenditures, are reviewed for allowability based on the requirements of each grant.

Management Response and Corrective Action Plan

In the past, funds administered by the Office of the Secretary were allowed greater latitude, in terms of reporting, due to resource demands limiting available staff. This resulted in both delayed reporting on some occasions, and a related delay in identifying questionable costs. Recent and upcoming staffing additions in Grants Management Branch and the Office of the Secretary will allow enhanced oversight, along with other general improvements. In addition, improved internal reporting and review controls (e.g, monthly reviews of administrative expenditures by Grants Management Branch's fiscal Internal Policy Analyst III and Branch Manager and the Office of the Secretary's Budget Director and Fiscal Manager) will be in place by May 2005.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-5: The Justice Cabinet Should Not Supplant State Funds With Federal Funds**

State Agency: Justice Cabinet - Office of the Secretary

Federal Program: CFDA 16.579--Byrne Formula Grant Program

Federal Agency: U.S. Department of Justice - Office of Justice Programs

Pass-Through Agency: Not Applicable

Compliance: Matching/Level of Effort/Earmarking

Amount of Questioned Costs: \$30,413

Supplanting means to deliberately reduce State or local funds because of the existence of Federal funds. For example, when State funds are appropriated for a stated purpose and Federal funds are awarded for that same purpose, the State replaces its State funds with Federal funds, thereby reducing the total amount available for the stated purpose.

The Justice Cabinet, Office of the Secretary created a new office, the Office of Investigations in July 2004. Staffing for this office was already in place and being paid with general fund money before the Byrne grant was awarded for this office. The Byrne Grant funds were awarded to the Office of Investigations on September 23, 2004. On November 15, 2004, \$30,413 in payroll for the Office of Investigations staff was charged to the Byrne grant. This included payroll from the 7/31/04 pay period through the 9/30/04 pay period for three Office of Investigations staff members.

By transferring charges to the grant that were already expended as payroll for staff already at work, the Justice Cabinet is supplanting federal funds.

According to the Catalog of Federal Domestic Assistance, the Byrne Formula Grant specifically “restricts the use of these funds for supplanting State and local funds...”

The Edward Byrne Memorial State and Local Law Enforcement Assistance Program Formula Grant Program requirements state “A grant recipient may not use federal grant funds to defray any costs that the recipient is already obligated to pay.”

The US Department of Justice Financial Guide Chapter 16 Unallowable Costs - Costs Incurred Outside the Project Period states “Any costs that are incurred either before the start of the project period or after the expiration of the project period are not allowable.”

Recommendation

We recommend that Justice Cabinet reimburse the Byrne Grant for the above-mentioned expenditures. We further recommend that Justice Cabinet thoroughly review grant requirements to ensure they are in compliance with all federal grant regulations.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Reportable Conditions Relating to Internal Control and/or
Reportable Instances of Noncompliance*****FINDING 04-JUST-5: The Justice Cabinet Should Not Supplant State Funds With
Federal Funds (Continued)**

Management Response and Corrective Action Plan

As originally proposed in the Justice and Public Safety Cabinet's reorganization enacted by Executive Order in 2004, the Office of Investigations had a different form, function, scope, and level of authority than the abolished Internal Investigations Branch. Relying on documentation and assurances submitted by the Office of the Secretary to this effect, a Byrne grant was awarded to partially support the operations of the new program. (Administrative staff resource limitations caused the award to be made on a delayed basis due to Grants Management Branch requests for additional application documentation.) However amendments to the Justice and Public Safety Cabinet's Reorganization Bill in the House and Senate during the 2005 session of the General Assembly greatly altered its proposed authority. Due to the revised structure for this program anticipated to be enacted by the General Assembly, the Justice and Public Safety Cabinet will terminate this grant and pay back all expenditures to the Byrne grant. In future, Office of the Secretary grant applications will be held to stricter timeliness requirements.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Other Matters Relating to Internal Controls and/or
Instances of Noncompliance*****FINDING 04-JUST-6: The Justice Cabinet Should Ensure That Information On The
Quarterly Financial Status Report Is Supported By Adequate Documentation**

State Agency: Justice Cabinet - Office of the Secretary

Federal Program: CFDA 16.575--Crime Victim Assistance

CFDA 16.579--Byrne Formula Grant Program

CFDA 16.588--Violence Against Women Formula Grants

Federal Agency: U.S. Department of Justice - Office of Justice Programs

Pass-Through Agency: Not Applicable

Compliance: Reporting

Amount of Questioned Costs: None

We audited the 6/30/2004 quarterly SF 269A Financial Status Reports submitted by the Justice Cabinet to determine if they were supported by sufficient, accurate documentation and prepared and reviewed by knowledgeable personnel.

We noted that amounts on the reports we reviewed were not adequately supported by MARS documentation.

Since the SF 269A reports contain the actual expenditures and unliquidated obligations as incurred for both the reporting period and cumulative for the award period, it is important that the amounts on the report be supported in the agency's accounting records.

Since the reports are providing cumulative information, incorrect accounting information could affect numerous reporting periods.

According to the U.S. Department of Justice Financial Guide, Chapter 11: Reporting Requirements, "Grantees are also required to maintain adequate documentation to provide an audit trail that substantiates the amounts reported on each SF 269A as submitted."

Recommendation

While GMB has improved the method of compiling information for the SF 269A, there is no clear audit trail from the supporting documentation to the actual report. There were numerous corrections on the SF 269As for several grants that required an adjustment to current year expenditures in order to get cumulative amounts to agree.

We recommend that the GMB continue to improve the reporting process to provide a clear audit trail from supporting reports to the SF-269A.

FEDERAL AWARD FINDINGS AND QUESTIONED COSTS***Other Matters Relating to Internal Controls and/or
Instances of Noncompliance*****FINDING 04-JUST-6: The Justice Cabinet Should Ensure That Information On The
Quarterly Financial Status Report Is Supported By Adequate Documentation
(Continued)**

Management Response and Corrective Action Plan

The Justice and Public Safety Cabinet disagrees with this finding and notes that the U.S. Department of Justice instituted a new, on-line reporting mechanism in April 2004 that experienced many difficulties, across many/most users. Upon request, USDOJ's Office of the Comptroller provided documentation of these difficulties for awardees' use in responding to audits; in part, it states that "the beginning balance or some subsequent FSR was modified to capture several events" and that "hard copies of SF269 FSRs prior to the third quarter of 2004 should be maintained by the grantee and used by auditors." (See attached.) Upon noting difficulties with the data submissions, Grants Management Branch maintained hardcopy drafts of SF269 submissions that are traceable to the supporting MARS documentation used to develop them. Previous improvements to the preparation methods and the hardcopy drafts were noted by the auditor during a site visit.

**U.S. Department of Justice****Office of Justice Programs***Office of the Comptroller**Washington, D.C. 20531***To Whom It May Concern:**

In April 2004, the Office of Justice Programs (OJP), Office of the Comptroller, implemented a web-based application for submitting the Standard Form (SF) 269, Financial Status Report (FSR). The Web-Based SF 269 FSR System (Web 269) allows award recipients (grantees) to view detailed information about their specific grant awards. The Web 269 also allows grantees to send their FSRs electronically over the internet. The OJP would like to offer this correspondence as documentation that can be used by your auditing firm to document the change from hard copy submissions and record keeping to electronic filing and online review.

FSRs contain the actual expenditures and unliquidated obligations for the award as incurred (at the lowest funding level) for the reporting period (calendar quarter), and, as a cumulative amount. Grantees report program outlays and revenue on a cash or accrual basis in accordance with their accounting system. Grantees are required to maintain adequate documentation to provide an audit trail that substantiates the amounts reported on each SF 269 FSR submitted. Prior to the implementation of Web 269, grantees faxed or mailed their SF 269 FSRs to the Office of the Comptroller. Hard copies of these submissions were stored in individual grant folders. Future SF 269 FSRs submitted using the Web 269 will be stored electronically in tables.

In OJP's effort to provide a Web-based 269 application, we revised certain business processes to accommodate the new functionality. One of those processes includes the recording of adjustments in the "This Period" column II rather than the "Previously Reported" column I. In the past, prior quarter adjustments submitted by grantees were recorded in the "Previously Reported" column on the SF 269 form. In the Web 269 application, prior quarter changes should be made with an adjustment in the "This Period" column. This change in business process affected our migration of data into the new system. FSRs submitted prior to the third quarter of Fiscal Year 2004 were uploaded into the Web 269 application during the implementation process. In some cases, the beginning balance or some subsequent FSR was modified to capture several events (i.e. submissions or modifications). Not all individual SF 269 FSRs that were submitted prior to the Web 269 implementation were uploaded. As of May 31, 2004, the data in the "Previously Reported" column was summarized and adjusted as necessary. In some cases a summary FSR may have been entered and an algorithm developed to capture the cumulative total. However, after June 1, 2004, all SF 269 FSRs submitted will be displayed individually in the grant award history file and will become the official file for that award. Hard copies of SF 269 FSRs prior to the third quarter of 2004 should be maintained by the grantee and used by the auditors during grant audits.

If you have additional questions or concerns, please contact OC's Customer Service Center by phone at 1-800-458-0786 (at option 2) or email at askoc@ojp.usdoj.gov.

Sincerely,

A handwritten signature in cursive script, reading "Cynthia J. Schwimer".

Cynthia J. Schwimer
Comptroller

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDED JUNE 30, 2004

Fiscal Year	Finding Number	Finding	CFDA Number	Questioned Costs	Comments
<u>Reportable Conditions</u>					
<i>(1) Audit findings that have been fully corrected:</i>					
FY 03	03-JUST-3	The Justice Cabinet Should Continue to Develop Procedures To Ensure Subrecipients That Expend More Than \$300,000 In Federal Awards In A 12 Month Period Receive An OMB Circular A-133 Audit	16.575 16.579 16.588	N/A	Resolved. No exceptions noted during FY 04 testing.
FY 03	03-JUST-5	The Justice Cabinet Should Implement Its Corrective Action Plan For Weaknesses Noted In Prior Year Regarding Indirect Costs	16.575 16.579 16.588	N/A	Resolved. Indirect Cost Plan submitted to federal cognizant on Jan 31, 2005.
FY 02	02-JUST-1	The Justice Cabinet Should Develop An Indirect Cost Allocation Plan And Submit It To The Cognizant Federal Agency For Approval	16.575 16.579 16.588	N/A	Resolved. Indirect Cost Plan submitted to federal cognizant on Jan 31, 2005.
FY 02	02-JUST-3	The Justice Cabinet Should Perform Sufficient Subrecipient Monitoring Activities To Ensure Subrecipients Expending More Than \$300,000 In Federal Awards Receive OMB Circular A-133 Audits	16.575 16.579 16.588	N/A	Resolved. No exceptions noted during FY04 testing.
<i>(2) Audit findings not corrected or partially corrected:</i>					
FY 03	03-JUST-1	The Justice Cabinet Should Either Develop An Indirect Cost Allocation Plan And Submit It To The Cognizant Federal Agency For Approval Or Stop Charging Indirect Costs To The Federal Government	16.575 16.579 16.588	\$46,774	Partially Resolved. Justice Cabinet submitted an indirect cost plan on Jan 31, 2005 to cognizant, but no indirect cost plan in place for FY 2004. See 04-JUST-1
FY 03	03-JUST-2	The Justice Cabinet Should Follow Established Subrecipient Monitoring Policies And Procedures To Ensure Subrecipient Monitoring Is Properly Performed And Documented	16.575 16.579 16.588	N/A	Not Resolved. Exceptions noted during FY 04 testing. See 04-JUST-2

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDED JUNE 30, 2004

Fiscal Year	Finding Number	Finding	CFDA Number	Questioned Costs	Comments
<u>Reportable Conditions (Continued)</u>					
<i>(2) Audit findings not corrected or partially corrected: (Continued)</i>					
FY 03	03-JUST-4	The Justice Cabinet Should Ensure Information On The Quarterly Financial Status Report Is Reliable	16.575 16.579 16.588	N/A	Not Resolved. Exceptions noted during FY 04 testing. 04-JUST-6
FY 02	02-JUST-2	The Justice Cabinet Should Develop Written Subrecipient Monitoring Policies and Procedures to Ensure Subrecipient Monitoring Is Properly Performed And Documented	16.575 16.579 16.588	N/A	Partially Resolved. Subrecipient monitoring procedures improved, but exceptions noted during FY 04 testing indicate that policies and procedures were not consistently followed. See 04-JUST-2
FY 02	02-JUST-4	The Justice Cabinet Should Prepare Quarterly Financial Status Reports That Are Supported By Adequate Documentation	16.575 16.579 16.588	N/A	Not resolved. FY 04 reports not supported by adequate documentation. See 04-JUST-6

(3) Corrective action taken is significantly different from corrective action previously reported:

No findings for this section.

(4) Audit finding is no longer valid:

No findings for this section.

Material Weaknesses

(1) Audit findings that have been fully corrected:

No findings for this section.

(2) Audit findings not corrected or partially corrected:

No findings for this section.

(3) Corrective action taken is significantly different from corrective action previously reported:

No findings for this section.

(4) Audit finding is no longer valid:

No findings for this section.

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
FOR THE YEAR ENDED JUNE 30, 2004

Fiscal Year	Finding Number	Finding	CFDA Number	Questioned Costs	Comments
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Other Matters

(1) Audit findings that have been fully corrected:

No findings for this section

(2) Audit findings not corrected or partially corrected:

No findings for this section

(3) Corrective action taken is significantly different from corrective action previously reported:

No findings for this section.

(4) Audit finding is no longer valid:

No findings for this section.